Testimony on Aetna-Humana Merger for Empower Missouri

To: John M. Huff, Director
Missouri Department of Insurance

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Director Huff, I appreciate the opportunity to come before the Missouri Department of Insurance (DOI) and testify about the proposed health insurance merger on Aetna and Humana.

Empower Missouri advocates for the well-being of Missourians through civic leadership, education, and research. Since our founding in 1901, we have had one priority—promoting social justice. We believe all people in Missouri should be treated with dignity and fairness, and share on a just basis in the responsibilities and benefits of the prosperity of our society. We also believe all people in Missouri should have true access to basic necessities, including quality healthcare.

This merger of Aetna and Humana will threaten that access to quality healthcare and lead to greater concentration in health insurance markets. We know that highly concentrated health insurance markets can lead to rising healthcare costs for consumers, decreased innovation, lower quality of care and decreased consumer satisfaction, and less consumer choice. We urge the Department of Insurance to reject this merger for the following reasons:

1) The merger of Aetna and Humana is not in the public interest;

2) It will harm Missouri consumers; and

3) The harm cannot easily be remedied through conditions.

Background Information

The Aetna-Humana merger is occurring at a time of increased consolidation in the health insurance market. If it proceeds, the newly formed Aetna company would cover 33 million American, adding 3.2 million Medicare Advantage members, and so Aetna would be the largest insurer in Medicare Advantage. In Missouri, health insurance markets are already moderately to highly concentrated, with Herfindahl-Hirschman Indexes (HHIs) of 2,116, 3,135, and 2,455 in the individual, small group, and large group markets respectively.

Health care costs are rising. The growth in workers' contributions to premiums is much higher than wage growth since 2000. This has reached the point where many consumers are putting off receiving healthcare due to increasing costs. Too many Missourians already do not have access to health care, and this merger will likely make the situation worse.

In Missouri, the merger would combine Aetna's 30% of the Medicare Advantage market with Humana's 22%, resulting in a 52% market share.[1] Additionally, in Greene and Jackson Counties the combined company would control 61% and 80% of the Medicare Advantage market, greatly reducing competition. A combined Aetna-Humana company would further possess a 21.7% share of Missouri's fully insured employer group market. When combined with the announced Anthem-Cigna merger, these two new companies would have 54% of the market in Missouri. The combined Aetna-Humana company would also possess 33.2% of the Medicare Part D market in Missouri, which would substantially lessen competition.

Competition is important for reducing healthcare prices and ensuring customers have access to care. A study by Professor Leemore Dafny found that mergers among health insurers diminish competition leading to increased premiums not just for merging parties but also for their rivals in the same market.[2] Moreover, a more recent study by the Center for American Progress found that where Aetna and Humana compete in markets, premiums are lower. The competition lowers Aetna's annual premiums by up to $302, and Humana's annual premiums by $43.[3]

An Aetna-Humana Merger Will Greatly Affect Missouri

The evidence is clear: increased health insurance concentration leads to higher insurance premiums, less quality, and reduced innovation. As health economics expert David Lazarus said, "When insurers merge, there's almost always an increase in premiums."[4] The Center for American Progress conducted a more recent study of the 2012 Humana-Arcadian health insurance merger and found that it led to a large increase in premiums as well, despite divestitures.

Concentration also affects the quality of care. A recent report by J.D. Power concludes that there is less consumer satisfaction and patient engagement in areas where there is less competition.[5]

Moreover, both Aetna and Humana have received substantial numbers of consumer complaints. They have also committed errors, violated orders from the Missouri Department of Insurance by failing to offer certain kinds of coverage, and agreed to pay fines. Missourians need assurances that these problems have been remedied.

Supposed Efficiencies Cannot Justify an Anticompetitive Merger

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[1] Gretchen Jacobson, Anthony Damico, and Tricia Neuman, *Data Note: Medicare Advantage Enrollment, by Firm, 2015*, KAISER FAMILY FOUNDATION (July 14, 2015), http://kff.org/medicare/issue-brief/data-note-medicare-advantage-enrollment-by-firm-2015/.

[2] Leemore Dafny, Are Health Insurances Markets Competitive?, 100 AM. ECON. REV. 1399 (2010).

[3] Topher Spiro, Maura Calsyn, & Meghan O'Toole, Bigger Is Not Better: Proposed Insurer Mergers Are Likely to Harm Consumers and Taxpayers, Center for American Progress (Jan. 21, 2015), https://www.americanprogress.org/issues/healthcare/report/2016/01/21/129099/bigger-is-not-better/.

[4] David Lazarus, *As Health Insurers Merge, Consumers' Premiums Are Likely to Rise.* L.A. TIMES (July 10, 2015 4:00 AM), http://www.latimes.com/business/la-fi-lazarus-20150710-column.html.

[5] Vera Gruesnner, *Plan Member Satisfaction Reduced in Less Competitive Markets*, HEALTHPAYER INTELLIGENCE (Mar. 18, 2016), http://healthpayerintelligence.com/news/plan-member-satisfaction-reduced-in-less-competitive-markets.

The merging companies claim that this deal will lead to greater efficiencies and that it will benefit Missourians. However, antitrust authorities have never allowed an anticompetitive merger to proceed because of supposed efficiencies.

Moreover, it is very doubtful that Aetna and Humana need to merge to achieve the efficiencies that they claim will result from this acquisition. Both companies are already quite large so they will not benefit from economies of scale. There is also no evidence that such efficiencies would be passed on to ordinary Missourians.

The Merger's Harm Cannot Be Fixed by Remedies

Traditionally, the Department of Justice and other antitrust authorities have relied on divestitures as a remedy to restore competition. However, divestitures are not an effective remedy in the case of health insurance mergers because they usually fail to restore competition. The Center for American conducted a study of divestitures required for the 2012 Humana-Arcadian merger, and found that in most cases the companies that acquired the divestitures failed to compete effectively, exited the affected markets, and left consumers with fewer choices.[6]

The Missouri Department of Insurance has the ability to adopt other remedies to protect consumers. If it does allow the merger to proceed, it should only do so after imposing strict conditions. Possible remedies include requiring premium stability or increased rate control post-merger, requiring the merged company to maintain benefits and options, or requiring that the company pass along savings to consumers in the form of lower premiums and deductibles.

In conclusion, this proposed health insurance merger of Aetna and Humana will reduce access to quality healthcare for most Missourians. It will result in higher costs for ordinary people and less competition and freedom of choice, and it is not in the public interest. The Missouri Department of Insurance can and should block the merger.

[6] Topher Spiro, Maura Calsyn, Meghan O'Toole, *Divestitures Will Not Maintain Competition in Medicare Advantage,* CENTER FOR AMERICAN PROGRESS (Mar. 8, 2016) https://www.americanprogress.org/issues/healthcare/report/2016/03/08/132420/divestitures-will-not-maintain-competition-in-medicare-advantage/.